

Notice of Allowability

Application No.

09/674,768

Applicant(s)

NEUHAUS ET AL.

Examiner

Art Unit

Russell Kallis

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 9/23/2004.
2. ☒ The allowed claim(s) is/are 1,5-7,9-13 and 16-26 (renumbered 1-20).
3. ☒ The drawings filed on 06 November 2000 and 22 April 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 9/23/04,12/17/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 12/22/2004
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kalpana Reddy on 12/22/2004.

The application has been amended as follows:

In the claims:

Claims 4 and 8 are cancelled.

In Claim 9, line 1, change "claim 8" to --claim 7--.

In Claim 9, line 2, delete "rape, ".

In Claim 10, part c) line 1, after "further" insert --transgenic--.

Claim 13 (Currently Amended) Propagation material of genetically modified plants according to any one of claims 7 [to]or 9, wherein the propagation material has ADP/ATP translocator activity.

In Claim 16, line 2, delete "7 to 9" and insert --7 or 9--.

In Claim 22, line 3, delete "corresponding to" and insert --of--.

In Claim 23, line 1, after "increased" delete "yield" and insert --starch, increased amylose, or increased starch and amylose--.

In Claim 23, part c) line 1, after "further" insert --transgenic--.

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In Claim 24, line 1, after “increased” delete “yield” and insert --starch, increased amylose, or increased starch and amylose--.

In Claim 24, line 3, delete “corresponding to” and insert --of--.

In Claim 24, part c) line 1, after “further” insert --transgenic--.

In Claim 25, line 1, after “increased” delete “yield” and insert --starch, increased amylose, or increased starch and amylose--.

In Claim 24, part c) line 1, after “further” insert --transgenic--.

The following is an examiner’s statement of reasons for allowance: The teaching of increased starch synthesis in isolated maize endosperm (Neuhaus H.E. *et al.* Biochemical Journal, 1993, Vol. 296, pages 395-401) and wheat endosperm (Tetlow I.J. *et al.* The Plant Cell, March 2004, Vol. 16; pages 694-708) when incubated with ATP suggests that one of ordinary skill in the art would have a reasonable expectation of success of increasing starch or amylose synthesis in a maize or wheat plant transformed with a plastidial ADP/ATP translocator that would increase ADP/ATP translocator activity in the starch and amylose synthesizing plastid.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

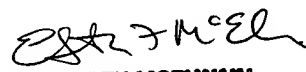
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (571) 272-0798. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Russell Kallis Ph.D.
December 22, 2004


ELIZABETH MCELWAIN
PRIMARY EXAMINER